


TENNESSEE REGULATORY AUTHORITY

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MEMORANDUM

To: Darlene Standley, Utilities Division Chief
From: Ron Graham 
Utilities Division
Date: July 12, 2005
Subject: Response to TDEC WPC Wastewater Rules Comments – Docket No 05-00105

I have prepared the following response to the comments filed by the Division of Water Pollution Control's (WPC) Permit Section in the Tennessee Department of Environment and Conservation (TDEC). I am expecting additional comments from TDEC's Office of General Counsel

I agree with the definition language suggested in the comment that refers to TRA Rule 1220-4-12-02 – "Building Outfall Line – the line that carries waste from the building to the first collection, storage, and/or treatment unit." As the comment reveals, the current definition is too specific to address the options that are possible

The next suggested wording change in TRA Rule 1220-4-12-04(3)(b) relates to TDEC's inability to provide a statement that the utility was installed according to plans and specifications. TDEC does state in their comments that a special condition could be required in their permit for the design engineer to provide an As-Built Certification. I suggest that this section be reworded as follows: "As-Built certification by their design engineer that states that the wastewater system was constructed according to plans and specifications approved by TDEC." This allows the utility to submit the same certification to both TRA and TDEC.

TDEC has also requested that a detailed statement of the cost of construction be required to be sent to both TRA and TDEC. Since all of our recent CCN amendment applications have been made on behalf of utilities that are not constructing their own facilities but rather receiving ownership of the facilities following construction, we have modified recent CCN data requests to obtain estimates on the contributed capital to the utility. The utility may not have information as to the exact construction cost according to utility representatives. If TRA continues to provide TDEC with all docket numbers of wastewater CCN applications, TDEC will have access to documents that should contain information related to the contributed capital and in the case of utility constructed facilities the cost of construction. I recommend that we not make this suggested revision.

TDEC has requested that the utility file their annual report with TDEC as well as TRA. Since the annual submission of information to TRA is required by statute, because TRA and TDEC could

readily exchange this information, and to avoid placing additional filing requirements by regulation upon the utilities, I recommend that we not make this suggested revision.

TDEC provided a comment about the requirement of utility records on title to the wastewater system's physical assets in TRA Rule 1220-4-12-.05. TDEC agrees with the rule but finds that this part should clarify that this includes the land upon which the wastewater system is built. TDEC also believes that the TRA should consider how to allow for instances where the land must be leased. I agree that both of these comments to this section are appropriate and suggest that I consult with our legal counsel to develop an appropriate revision to TRA Rule 1220-4-12-.05(1).

I recommend that TRA accept TDEC's suggested revision to 1220-4-12-06(2) and change "These inspection records shall be maintained by the utility for a minimum of two (2) years" to "These inspection records shall be maintained by the utility for a minimum of three (3) years" to align with TDEC's retention requirement for the same records.

TDEC's comments to both TRA Rule 1220-4-12-07 and -.08 ask questions to issues that TRA is currently seeking to resolve. I recommend take note of the specific questions and concerns and provide a comprehensive response when the issues have been more fully explored.

Although most of the comments related to TRA Rule 1220-4-12-09 are also questions on issues that TRA is currently seeking to resolve as stated above, I do recommend that the suggested revision to TRA Rule 1220-4-12-.09(4)(b) be made so that it would now read "A plan for deferring or accelerating certain improvement costs and recovering costs in phases."

TDEC suggested that additional language be added to TRA Rule 1220-4-12-11 that "Where a service failure or emergency may cause a condition of pollution or health hazard affecting a public water supply, the utility shall notify the public water supply authority as soon as the service failure or emergency is known." Since this is not a notification to the wastewater customer, I recommend that the revised language related to concerns with drinking water safety be added under "Safety" in 1220-4-12-10(3).

TDEC's final comment refers to the billing rates in TRA Rule 1220-4-12-.12. TDEC is commenting on TRA tariff provisions related to the charges that are approved for wastewater systems with various sizes of customers. The rule is intended to ensure that there is fair application rates approved in the tariff. Although I find merit in there argument that there is a significant economy of scale favoring larger projects, I do not recommend any revision to the language based upon TDEC's comments. This is an issue that must be considered in tariff approvals.

- c. Chairman Jones
- Director Tate
- Director Miller
- Director Kyle
- Richard Collier
- Aster Adams
- Eddie Roberson
- Docket File